UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1993/SR.27
24 February 1993

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Forty-ninth session

SUMMARY RECORD OF THE 27th MEETING
(FIRST PART)*

Held at the Palais des Nations, Geneva,
on Thursday, 18 February 1993, at 3 p.m.

Chairman: Mr. ENNACEUR (Tunisia)

later: Mr. FLINTERMAN (Netherlands)

CONTENTS

Statement by the Deputy to the President of the Islamic Republic of Iran for Legal and Parliamentary Affairs

Statement by the Minister for Foreign Affairs of Finland

Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its forty-fourth session (continued)

Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (continued)

* The summary record of the second part of the meeting appears as document E/CN.4/1993/SR.27/Add.1.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.93-10925 (E)

The meeting was called to order at 3.30 p.m.

STATEMENT BY THE DEPUTY TO THE PRESIDENT OF THE ISLAMIC REPUBLIC OF IRAN FOR LEGAL AND PARLIAMENTARY AFFAIRS

1. Mr. MOHAJERANI (Islamic Republic of Iran) said that, from the very beginning of man's life on Earth, human rights had been regarded as inalienable and indivisible. Throughout history, divine religions had repeatedly reaffirmed that concept. Human rights constituted the objective of the great prophets, whose message had made up a universal charter of human rights. With the passage of time, the scope of human rights had broadened, and the obligations it had created had grown as man had developed. He quoted the Book of Genesis, verses 1:26 to 1:28, to illustrate the fact that, for the Bible, all men and women were created in the image of God. He also noted that in a speech to the United States Congress in 1944, Pope Pius XII had declared that human rights were inalienable and inalterable.

2. Islam taught that all men had originally been a single nation with no difference or advantage among them. God had sent the prophets to stop men from violating each other's rights. The Koran stressed that all men were descended from Adam and were blessed with dignity in their creation. All men were equal, and no nation or race was superior to any other. The Prophet of Islam had denounced all forms of discrimination, and the Koran had invited followers of other religions to consider the points they had in common with Islam.

3. It had been revealed to the Prophet of Islam that he should make it known that the truth came from God, i.e. religion. Everyone was then free to choose whether to be a believer or a non-believer. Islam taught that all men were free and that there was no difference between men and women, black, white or yellow or Europeans and Asians. All men enjoyed the right to life, dignity, sovereignty, self-determination and to development, as well as freedom of opinion, religion and expression.

4. The attention given to freedom and human rights was a great achievement of modern history. However, in the West the focus on freedom and human rights largely ignored or undermined religious thought, whereas, in the Orient, and particularly among Muslims, the emphasis on religion linked man to freedom and human rights. The reality of freedom and human rights could be interpreted in a religious context.

5. He had quoted from the scriptures to underline that religion was not in contradiction with freedom and human rights, but was rather, the source of such rights. Man's rights could be recognized and realized only when derived from divinity. That was a fundamental difference of opinion between the secular and the religious schools of thought.

6. The epoch of religious reawakening had begun. In the Islamic world, the religious revival had been growing rapidly and had become the priority on the political agenda. Unfortunately, that had been viewed more as a phenomenon that must be dealt with than as one deserving understanding and tolerance. Such an attitude had serious implications for human rights. In many parts of the world, the rights of proponents of a religious reawakening were grossly

and systematically violated, without such abuses attracting any international attention. It was as though a person lost all his rights as soon as he was branded a religious revivalist or "fundamentalist".

7. The most vivid example of that could currently be seen in occupied Palestine. A new policy targeted Palestinians with strong religious views and attacked their most basic rights. The 400 Palestinians stranded in no man's land were symbols of the new Israeli policies. The international community must exert all necessary means to ensure that the situation was immediately reversed; otherwise there would be many more victims to follow.

8. In Bosnia and Herzegovina, Muslims were also under attack. There, the Serb aggressors had systematically pursued a policy of ethnic cleansing, destroying a country and a nation, massacring, raping, torturing and causing terrible hardship. Despite all its expressions of grief, the international community had been unable to put an end to that tragedy. Once again, it seemed that religious revivalism was the main underlying reason for the reluctance to use all means to protect the rights of Bosnian Muslims.

9. The future held two options: confrontation, which appeared to be prevailing, or dialogue, understanding and an appreciation of the emerging religious mood. The World Conference on Human Rights provided an excellent opportunity to embark upon a dialogue for a better understanding of human rights issues among people with different cultures, beliefs and traditions and varying political, economic and social backgrounds. It would be a mistake if each one sought to impose his views on others. It was important to work towards a climate of respect that would pave the way to a true universality of human rights.

10. Otherwise, episodes such as that of Salman Rushdie would be repeated over and over again. For the religious, it was unacceptable that freedom of speech should allow their most sacred beliefs to be insulted. Muslims were not alone in holding that view, and he quoted chapter 27, verses 21-23 of the Book of Job, which described what was in store for those who insulted the sanctity of religion.

11. In the predominant culture, however, the rights of the hundreds of persons who had lost their lives as a result of that provocation raised no concern: all that mattered was to protect the culprit. That might only breed further violence.

12. As long as the issues of selectivity, discriminatory approaches and lack of objectivity were not addressed, it would not be possible to move forward. Mechanisms were needed to ensure that human rights violations could be addressed regardless of where or by whom they were committed. There must be a profound realization of the direct link between human rights and development, and instruments must be drafted to make that link binding.

13. An examination of ways to protect and enhance human rights must include measures to combat crime, particularly drug trafficking, and other activities that caused great harm to public order and offended public morals. It was essential to combat discrimination against women and to return to them their dignity and the rights that they had long been denied. Further steps must

also be taken to protect children and youth, the most vulnerable segment of society. Attention must also be given to the right of peoples to self-determination, the struggle against apartheid and all forms of racism, particularly in light of the recent resurgence of racist tendencies in the West, and the need to put a halt to ethnic cleansing.

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF FINLAND

14. Mr. VÄYRYNEN (Finland) said that his country had returned to membership of the Commission at a time when human rights issues were in the centre of international relations. His compatriots saw themselves as representatives of an old Nordic tradition of individual freedom and equality, and, in that spirit, his delegation intended to cooperate with members, observers and non-governmental organizations alike.

15. He had followed with satisfaction the growth of the human rights system of norms, but standard-setting was not in itself sufficient. If not implemented, the instruments were of academic significance only. The responsibility for implementation lay mainly at the national level and he urged all States to accede to the international human rights instruments and the corresponding mechanisms.

16. It was not always easy to comply with human rights obligations. Cultural background and levels of development might have an impact on how successful the implementation was and where the emphasis lay. It was essential, however, that all Governments respect basic human rights, commit themselves to those obligations and genuinely strive to implement them. At the same time, to ensure credibility, the international community's application of human rights standards and mechanisms must be strengthened.

17. Promotion of human rights and democracy required constant vigilance. The non-governmental organizations had an indispensable role to play in that regard. Democracy based on popular participation, good governance, an independent judiciary and the rule of law not only guaranteed political stability but also promoted sustainable development. For that reason, it would be useful to improve coordination between development programmes and human rights bodies.

18. Appropriate measures must be urgently envisaged by the international community to respond to such mass violations of human rights as the practice of ethnic cleansing and rape in Bosnia and Herzegovina and the looting of humanitarian aid in Somalia. As part of the broadened concept of security within the United Nations, human rights deserved a major integrated role in peace-keeping, peacemaking, preventive diplomacy and early warning. Nowhere was that more obvious than in the context of ensuring humanitarian aid to the victims of man-made disasters, as in Bosnia and Herzegovina and Somalia.

19. It was no longer possible to maintain that the human rights situation in a country was a purely internal matter. The sovereignty and integrity of States must be respected but that was no justification for opposing the consideration of the human rights situation in any country whose actions had given rise to concern in the international community. On the other hand,

the human rights situation in other States did not justify complacency about the situation in one's own country. Every country - including his own - could improve its human rights performance. Double standards were unacceptable.

20. Although the United Nations had improved its capacity to deal with human rights violations, the current situation was often unsatisfactory. His delegation, which supported all efforts to strengthen the existing mechanisms, welcomed consideration of new mechanisms to respond promptly to human rights violations and commended the work of the Commission's thematic rapporteurs and working groups but emphasized that the cooperation of Governments was necessary for the proper functioning of all those mechanisms whether old or new.

21. The plight of minorities was particularly alarming, and growing racism, hatred and fanaticism posed a serious threat not only to human rights but also to peace and security. His Government thus welcomed the recent adoption of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. The Conference on Security and Cooperation in Europe (CSCE) had recently improved its early warning capabilities by establishing the office of a High Commissioner for Minorities. After some experience had been gained from the CSCE activities, consideration might be given to the creation of a similar United Nations post which, given the current situation, was certainly needed.

22. Like a number of speakers who had addressed the Commission, he was seriously concerned about the insufficient capacity of the Centre for Human Rights to fulfil its growing responsibilities. More resources should be allocated for human rights purposes within the United Nations system.

23. The World Conference on Human Rights offered a unique opportunity to reaffirm that human rights were universal and indivisible and that civil, cultural, economic, social and cultural rights were interdependent. The Conference should focus on achieving specific goals and developing future strategies for improving compliance with human rights standards.

24. There could be no sustainable development without respect for human rights. The United Nations Conference on Environment and Development (UNCED) had stressed that each country had the primary responsibility for its own development, with the support of the international community. There was need for a new partnership among nations based on the dignity and rights of the individual and the interrelationship between human rights, democracy and development.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-FOURTH SESSION (agenda item 19) (continued) (E/CN.4/1993/2, 58 and Add.1, 59 and 60; E/CN.4/Sub.2/1992/3 and Add.1)

25. Mr. ANDREU (International League for the Rights and Liberation of Peoples) said that there was a disturbing tendency for certain States to convert measures adopted under a state of emergency into permanent legislation once the state of emergency had been lifted. In so doing, rights that could

be derogated from under states of emergency remained suspended once normalcy was restored. The Special Rapporteur on states of emergency should focus on such practices in his annual report.

26. Colombia was a case in point. In October 1991, the Colombian Government had issued 11 decrees whereby 42 emergency measures had been adopted as permanent legislation. Some of those measures, which imposed restrictions on judicial guarantees and limited habeas corpus, had been much criticized by human rights organizations. An emergency provision of 10 July 1992, under which habeas corpus was declared inadmissible in certain criminal cases, had been converted to permanent legislation on 5 October 1992. Two judges of the Colombian Constitutional Court, took the view that, by that measure, the Government had made habeas corpus a "dead letter".

27. Some emergency measures were particularly dangerous for the defence of human rights and made impunity even more far-reaching. In order to combat "supposed community entities that could serve as a front for the guerrilla movement", the authorities had been given broad powers to investigate the funds of non-governmental organizations. Such measures were a great danger to human rights organizations in a country in which the defence of human rights was considered subversive, where legitimate human rights organizations and judges had been accused by the press of collaborating with guerrilla groups and where lawyers and human rights advocates had been murdered or had disappeared.

28. In another development, the military forces had been invested with the powers of the judicial police (decree No. 1810 of 9 November 1992). That decision, which was a pillar of the system of impunity in Colombia, ran counter to the recommendations of the Working Group on Enforced or Involuntary Disappearances. On 20 January 1993, the Government of Colombia had announced its decision to make those decrees permanent legislation.

29. Ms. GONZALEZ (Latin American Federation of Associations of Relatives of Disappeared Detainees) said she welcomed the progress made in rationalizing and simplifying the work of the Sub-Commission. The preparation of studies was an important part of the Sub-Commission's work and the practice of drawing up preliminary documents was a sound one, whereby non-governmental organizations could make a valuable contribution. The introduction of a three-year deadline for the completion of studies, though somewhat short, was a welcome development.

30. The increasingly widespread practice of impunity for perpetrators of human rights violations, cited in draft resolution V of the Sub-Commission's report (E/CN.4/1993/2) as a fundamental obstacle to the observance of human rights, was particularly prevalent in the countries of Latin America. In Bolivia, for example, one former dictator, had been a fugitive from justice for three years while another was standing for the presidency. Both men had been guilty of grave human rights violations. In Colombia, too, senior army officers and members of the police force retained their positions although they had been guilty of political murders, disappearances, massacres and torture. She therefore urged the Commission to adopt draft resolution V on the question of the impunity of perpetrators of violations of human rights and to allow the experts to continue their study on the question.

31. On the question of the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms (Sub-Commission resolution 1992/32), she commended the study prepared by the Special Rapporteur (E/CN.4/Sub.2/1992/8), and pointed out that, for the families of the victims, compensation and rehabilitation needed to be accompanied by truth and justice and an end to the practice of impunity. She welcomed the recent legislation in Argentina and Chile providing for compensation for victims and their families, but was concerned that, in Argentina, persons bringing habeas corpus actions were required to pay costs if the actions were disallowed.

32. On the question of political prisoners, she referred to the particularly grave situation in Colombia, where there were 425 political prisoners, including 31 women, many of whom had been ill-treated or tortured. The international community should monitor closely that situation which formed part of a consistent pattern of violations of human rights taking place in that country.

33. Mr. FORSTER (International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and Other Minorities) said, with respect to Sub-Commission decision 1992/110, that many of the problems faced by indigenous peoples throughout the world were the result of complex treaties concluded between States without any consideration for the interests of the peoples in the territories concerned. Arbitrary colonialist frontiers were still causing tremendous problems. Treaties between States and indigenous populations, constantly violated, had often been used as a weapon of colonial domination. While his organization commended the work of the Special Rapporteur on the study of treaties, agreements and other constructive arrangements between States and indigenous populations (E/CN.4/Sub.2/1992/32), it felt that he should be given funding and staff support commensurate with the scale of his task.

34. He drew attention to the case of Bougainville, where treaties were still being concluded and violated by the Government of Papua New Guinea. The situation required urgent investigation in view of the massacre of the island's inhabitants and the destruction of its infrastructure. A treaty was urgently needed to restore the basic human rights and fundamental freedoms of the people, with full respect for their indigenous rights and proper monitoring to ensure its implementation. The Special Rapporteur should conduct a thorough investigation and access should also be granted to the various other fact-finding missions wishing to visit the island.

35. Mr. IBARRA (International Indian Treaty Council) said that his organization attached great importance to the work of the Sub-Commission because of its creative and innovative approach and the opportunity it gave organizations such as his own to express their views.

36. His organization particularly welcomed the study on human rights and the environment prepared by the Special Rapporteur (E/CN.4/Sub.2/1992/7 and Add.1) since many Indian lands were threatened by environmental pollution or had been contaminated by chemical, industrial or radioactive waste. The destruction of

the tropical rain forests, especially in the Amazon basin, was wiping out the peoples who had lived there for thousands of years and also posing a growing environmental threat to the planet as a whole.

37. He endorsed the call made in Sub-Commission resolution 1992/31 for a second progress report to be drawn up by the Special Rapporteur and pledged his organization's full cooperation. The Commission should also authorize the Special Rapporteur to visit the regions concerned and collect testimony from the indigenous populations affected.

38. Sub-Commission resolution 1992/33 recommended that the Commission should approve the publication and widest possible distribution of two important documents, namely the reports and recommendations of the Meeting of Experts to review the experience of countries in the operation of schemes of internal self-government for indigenous peoples, held at Nuuk, Greenland (E/CN.4/1992/42), and the United Nations Technical Conference on Practical Experience in the Realization of Sustainable and Environmentally Sound Self-Development of Indigenous Peoples, held at Santiago, Chile (E/CN.4/Sub.2/1992/31). Those reports would stimulate debate among the indigenous organizations and would be informative and educational for other bodies.

39. The standard-setting work of the Working Group on Indigenous Populations was of vital importance, particularly the draft universal declaration on indigenous peoples. Resolution 1992/33 also called for the organization of regional training courses for indigenous peoples on the United Nations, human rights and indigenous peoples' rights, and his organization was ready to cooperate fully in implementing that proposal.

40. The progress report on the study on treaties, agreements and other constructive arrangements between States and indigenous populations submitted by the Special Rapporteur (E/CN.4/Sub.2/1992/32) reflected the Sub-Commission's concern to seek out the views of indigenous organizations on the subject and the Commission should give the Special Rapporteur all the assistance necessary for the completion of his mandate, including the resources needed to gather first-hand testimony from indigenous peoples.

41. His organization firmly supported Sub-Commission resolution 1992/35 on the cultural and intellectual property of indigenous peoples and endorsed the Sub-Commission's request that the Special Rapporteur be given all the assistance necessary to complete her task successfully. With regard to Sub-Commission resolution 1992/36 on the relocation of Navajo and Hopi families, the mediation referred to in the resolution had unfortunately not produced the results expected, since the mediator's proposals unduly restricted the years of residence, the number of animals to be kept and the amount of land available for each family. Consequently, the problem remained outstanding.

42. Ms. SCHREIBER (International Abolitionist Federation) urged the Commission to endorse Sub-Commission resolution 1992/2 on the report of the Working Group on Contemporary Forms of Slavery, which called for the extension of the mandate of the Special Rapporteur on the sale of children,

child prostitution and child pornography, the implementation of the Programme of Action for the prevention of those practices and the adoption of measures for the prevention of traffic in persons and exploitation of the prostitution of others.

43. She was glad to see that the report of the Secretary-General on the subject (E/CN.4/1993/58) had accepted most of the Federation's recommendations, including the preventive measures Governments should take to protect women victims of slavery and prostitution against AIDS and other sexually transmitted diseases. The Federation also stressed the role and responsibility of the clients of prostitutes, which had received no mention elsewhere. There was a close relationship between drug trafficking, crime and the exploitation of prostitution and it was urgent to adopt a vigorous strategy to combat adult prostitution, applying many of the measures that were used in combating child prostitution.

44. The Federation suggested that an ad hoc committee be established to monitor the application of the provisions of the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, similar to those set up to monitor other conventions; that a special rapporteur be appointed to conduct a wide-ranging study of all forms of sexual exploitation and to report thereon to the Commission; and that an official of the Centre for Human Rights be given sole responsibility for collecting and collating all information on sexual exploitation and traffic in persons. Lastly, it welcomed the decision by the General Assembly to establish the United Nations Trust Fund on Contemporary Forms of Slavery.

45. Mr. FLINTERMAN (Netherlands) said that the Sub-Commission had played an important role over the years both in setting new standards and in breaking new ground, by initiating studies in highly relevant areas not previously tackled by the United Nations. However, it had also been criticized for straying too far from its original mandate. His delegation had endorsed those criticisms, but he recalled that the Commission itself had considerably extended the Sub-Commission's mandate and that the political context in which it was currently working was entirely different from that of 1947.

46. His delegation welcomed the significant steps the Sub-Commission had taken to reform its methods of work, as reflected in the detailed guidelines adopted in 1992 (resolution 1992/8), but felt that much still remained to be done, especially with regard to the reform and rationalization of the Sub-Commission's agenda, its role in country-specific situations of human rights violations, the role of alternate members and the need to strengthen the independence of its members. All those matters should be given the highest priority at the Sub-Commission's forthcoming session.

47. His delegation attached particular importance to the Sub-Commission's studies on the right to a fair trial, minorities, the question of impunity, and the right to compensation, restitution and rehabilitation for victims of gross violations of human rights. It also commended the Sub-Commission's work on the realization of economic, social and cultural rights, especially the study by the Special Rapporteur (E/CN.4/Sub.2/1992/16) and the planned studies

on the right to adequate housing, the human rights dimensions of population transfer, forced evictions and extreme poverty, which were all interrelated issues. It had, however, some doubts as to the desirability of further study of the question of human rights and the environment.

48. He hoped that, before the end of 1993 the Working Group on Indigenous Populations would have completed its work on the draft universal declaration on indigenous peoples, which should produce a lasting focus on the rights and interests of the populations concerned. That would be a major contribution to the International Year of the World's Indigenous People. A policy memorandum on the rights of indigenous people would shortly be submitted to his country's Parliament, emphasizing his Government's commitment to take those rights seriously in its development cooperation policies. Other activities to commemorate the International Year were also under way.

49. His delegation gave notice that it intended to submit resolutions on the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery and on the report of the Working Group on Contemporary Forms of Slavery.

50. Mrs. RUESTA (Venezuela) said that the report of the Sub-Commission on its forty-fourth session (E/CN.4/1993/2) and the report prepared in accordance with paragraph 14 of Commission resolution 1992/66 (E/CN.4/1993/60) confirmed the progress made towards achieving the necessary coordination between the Commission and its main subsidiary body, but also highlighted the difficulties involved. Conflict had given way to dialogue and the Sub-Commission was beginning to fulfil its rightful and important role in promoting and protecting human rights in close collaboration with the Commission.

51. Problems remained, however, as illustrated by the Sub-Commission's failure to take any decision on restructuring its agenda and improving coordination with both the Commission and other relevant United Nations bodies. The lack of proper coordination with other bodies was disturbing, since it meant that pertinent concerns raised by the Sub-Commission frequently went unheeded. However, it had succeeded in submitting to the Commission, in its resolution 1992/8, a series of guidelines on its methods of work.

52. In that regard her delegation supported guidelines Nos. 1, 2 and 3 concerning the Sub-Commission's studies. As for appointment of rapporteurs (guideline No. 4), she believed that if an alternate had been duly elected and the expert responsible could not attend the meetings for exclusively technical reasons, it was normal that his alternate should serve as rapporteur.

53. While guideline No. 5 contained an interesting idea, her delegation thought that the original proposal by the Working Group was more appropriate, since it provided that the commentators should be appointed by the Sub-Commission, whereas guideline No. 5 specified that they would be appointed by the author of the study. In her delegation's view, that would remove the possibility of having a "devil's advocate", who could in advance undertake studies and make proposals that would then have to be approved by all.

54. As for the number of resolutions and decisions, her delegation once again would have preferred the text submitted by the Working Group. It was still considering that point, however, and thought that guideline No. 10 complemented guideline No. 9 by pointing out that if a draft resolution was not sponsored by at least four members, the Chairman could invite the author to withdraw the draft.

55. Paragraphs 1 and 2 of guideline No. 14 could be justified if it was a question of the right of reply. She failed to see, however, why government observers should be last to make statements, particularly when they would have to make the political decision whether or not to implement a decision taken by the Sub-Commission.

56. In connection with guideline No. 16, her delegation did not see why some speakers should be given more time than others to make their comments. Furthermore, the guideline did not take account of the expert government observers who could also express opinions and provide information.

57. Ms. BROCH (Minority Rights Group) said that she wished to draw attention to the grievances of the native peoples of the Russian far north. "Northern minorities" was the official term given to 26 small tribal groups who lived in a region stretching across northern Russia and constituted a small minority, outnumbered by Russian and other settlers. They were currently making contact with other indigenous peoples in Alaska, Canada and elsewhere. Some of the northern minorities peoples had suffered severely under Russian rule, others had fled into the tundra, while a few tribes had managed to flourish.

58. Following the seizure of power by the Bolsheviks in October 1917, the new communist State had established the Committee of the North, composed of scholars and government officials, to work for the benefit of the northern minorities. However, there had been disagreements within the Committee from the outset. The scholars had favoured respect for the traditional ways of life, advocating slow changes, while the Communist Party representatives had wanted to promote the economic integration of the north into the rest of the country.

59. The Committee had, at first, followed the course recommended by the scholars and established reservations for the peoples with elected representatives to exercise executive and judicial power but, from 1929 onwards, land, herds and property had been collectivized, the tribal councils replaced by less representative bodies and all real power had gradually leaked away from the local administration. State-owned companies or ministries had soon become the dominant power, taking over native land and resources. Russians and other settlers had poured into the region, living on State farms and labour camps and the northern people had become minorities in their own land and were forcibly Russified.

60. In the following decades, the timber companies had come first, followed by oil and gas extraction companies which together had reduced the forested areas to barren desert. Like the other peoples of the former Soviet Union, the northern minorities had been the victims of totalitarian communism and, the pressures had almost succeeded in destroying them.

61. They were currently endeavouring to regain their traditional lands, repair past damage, cope with a free-market economy and achieve respect for human rights in the new Russian State. Their voices had been stifled for far too long; it was time for their message to be heard in the international community.

62. Ms. TERANISHI (Japan), speaking in exercise of the right of reply, said that, at the previous meeting, several observers of non-governmental organizations had raised questions concerning the conduct of the Japanese army during the Second World War, with particular reference to the so-called "comfort women".

63. Her Government had expressed its sincere apologies and remorse to all those who had endured indescribable pain and suffering as so-called "comfort women" and had dealt sincerely with the issue of claims, including the question of compensation, in accordance with multilateral and bilateral peace treaties and all other relevant treaties with the countries concerned. It was also giving serious consideration to other ways in which it could best convey its feelings of compassion to those who had suffered.

64. Mr. MOON (Republic of Korea), speaking in exercise of the right of reply, said that in recent years, his Government had urged the Government of Japan to undertake a thorough investigation into all aspects of the inhuman and tragic issue of "comfort women", including the role of the Imperial Japanese Government, and to adopt the proper remedial measures.

65. In July 1992, the Government of Japan had made the results of its investigation public and admitted for the first time the involvement of the Imperial Japanese Government. However, it had maintained that there was no evidence that the women had been coerced into serving the Japanese soldiers during the Second World War.

66. The results of his own Government's investigation showed clearly that coercion and violence had been employed at both the recruitment stage and thereafter. The testimony of the victims indicated that they had been forced to serve as sex slaves for Imperial Japanese soldiers and that the Imperial Japanese Government had been deeply involved and had used coercive means at almost every stage of that shameful episode.

67. Unless Japan confronted the truth of its involvement, it would never be able to come to terms with its own past. The Japanese Government had therefore a responsibility to conduct a full and prompt investigation into that tragic affair and to take appropriate follow-up measures for the victims whose suffering remained unmitigated, almost 50 years since the end of the Second World War.

68. Mr. ALFONSO MARTINEZ (Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities) said that he would inform the Sub-Commission at its forty-fifth session of the trends that had emerged during the Commission's discussion of its report (E/CN.4/1993/2), the first and foremost of them being that the constructive dialogue between the Commission and the Sub-Commission continued to flourish on a basis of

mutual understanding. He assured the members of the Commission that the Sub-Commission would take full account of the comments they had made. In particular, the question of the functions of the alternates would have to be carefully studied.

69. The members of the Commission had, in particular, expressed appreciation of the work of the Sub-Commission and its Working Group on Indigenous Populations. In the International Year of the World's Indigenous People, it was perfectly natural that increasing importance should be attached to that issue at the world level, and that it should have figured largely in the Commission's debate. He hoped that, despite the limited time available to it, the Working Group would be able to conclude its work on the draft universal declaration on indigenous peoples before the end of 1993.

70. It should not be forgotten that studies could not be initiated by the Sub-Commission itself but only by the Commission or the Economic and Social Council. Moreover, as the Sub-Commission had always stressed, its experts were independent and its work on certain questions had been outstanding precisely because of their independence.

71. The CHAIRMAN said that the Commission had concluded its consideration of agenda item 19.

IMPLEMENTATION OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF (agenda item 22) (continued) (E/CN.4/1993/62 and Corr.1 and Add.1, E/CN.4/1993/63 and 86; E/CN.4/1993/NGO/27; E/CN.4/1992/52)

72. Mr. D'ALMEIDA RIBEIRO (Special Rapporteur on religious intolerance), introducing his report on the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (E/CN.4/1993/63), said that he wished to stress that his mandate was not aimed at designating "guilty parties" or of making a judgement but rather of promoting a better understanding of the infringements of the freedoms set forth in various international legal standards that guaranteed the right to freedom of thought, conscience and religion. Consequently, he had always adopted the practice of reporting not only the allegations he received from non-governmental organizations but also the replies from the States concerned. He had tried not to omit any significant detail and, in that connection, he mentioned that, since the completion of the report, he had received further replies from the Governments of China, Greece, and Romania which would be duly reflected in the next report.

73. It was not possible for the criminal legislation of certain countries, under the pretext of defending the State religion or dominant religion, to continue to ignore the Declaration and the basic international instruments recognized by the vast majority of countries, such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Unfortunately, numerous manifestations of intolerance still occurred in various parts of the world, caused sometimes by governmental actions but also by fanatical circles that overwhelmed the forces of order of the Governments.

74. There was no shortage of examples. If, in the case of the former Yugoslavia, the religious argument had served as a pretext for discord among the ethnic or national groups, recent events in India between the Hindu and Muslim communities were a flagrant example of the fanatical excesses he had mentioned. Reference could also be made to the antagonism existing between Muslims and Christians in the Sudan and Egypt, recent changes in the Criminal Code of Pakistan providing for capital punishment for persons accused of blasphemy against the prophet, and the increase in the reward offered by the Islamic Republic of Iran for the murder of the British writer Salman Rushdie.

75. Those practices were incompatible with the relevant international instruments, in particular the Declaration. He was unable to accept the arguments that Westerners were unable to understand the significance of the Islamic religion or that it was simply respecting an order from God. He was unable to accept either the idea that some of the remarks along those lines that he had transmitted to a few countries could be interpreted as a return to the Crusades or the statement that in any country, the entire population practised the same religion.

76. He expressed the hope that the international community would agree henceforth to respect the ideologies and beliefs of everyone in a world where diversity was the rule and where the freedom of belief and thought could flourish. For his own part, he was unable to continue as Special Rapporteur for health reasons, having already been unable to accept invitations to visit a number of countries.

77. Mr. Flinterman (Netherlands) took the Chair.

78. Mr. SCHIFTER (United States of America) said that the cause of religious freedom had been considerably advanced in recent years, especially in Eastern Europe and the former Soviet Union, but that, regrettably, progress had not been uniform. Article 18 of the Universal Declaration of Human Rights provided for freedom of thought, conscience and religion and, in particular, the right to engage in religious observance in community with others, while article 20 of the Declaration stipulated that everyone had the right to freedom of peaceful assembly and association. The freedom to practise religion and the freedom of association were thus linked, and any restriction of those rights would be in contravention of internationally recognized standards and, more specifically, of the Declaration.

79. Although respect for religious freedom had greatly increased as a result of the collapse of the communist regimes in Eastern and Central Europe, serious impediments remained to the practice of religious belief. In particular, some Governments severely repressed certain religions, sometimes in combination with efforts to convert people to an official State religion. In addition, interdenominational strife, often not governmentally inspired, could result in bloodshed and the destruction of places of worship or private property.

80. Of the countries in which repression of religion was a feature of government policy, Iran could be singled out for its continuing victimization of the Baha'i faith. In Sudan, non-Muslims had been coerced into professing Islam, and apostasy was punishable by death.

81. In Cuba, the cult of personality could be regarded as the de facto State religion. In their programme of repression directed against traditional religion, State security agents had interrupted services in Catholic churches in order to carry out arrests, and religious schools, seminaries and church-administered health clinics had been either banned or severely restricted in their activities. Persons who protested against such abuses were frequently the targets of harassment.

82. Other problems arose in countries where the free exercise of the rights provided under article 18 of the Declaration of Human Rights were restricted. In such countries the adherents of faiths not officially sanctioned were liable to various forms of discrimination, particularly with regard to education, travel and employment. In China, for example, Christians had been imprisoned and tortured, and their freedom of worship was severely curtailed.

83. In a third category of countries, spontaneous outbreaks of sectarian violence were the result of religious fanaticism rather than of government policy. Situations of that kind were eminently suited to United Nations mediation, and he recommended that, using existing United Nations resources, the Centre for Human Rights should be enabled to develop programmes, under the guidance of the Special Rapporteur, to bring people of different faiths together in the interests of mutual understanding.

84. While there were occasions on which delinquent Governments should be exposed, it was sometimes more appropriate for the Special Rapporteur to engage in unofficial discussions with Governments in the hope of bringing about change. Most importantly, there were opportunities for the Centre for Human Rights to provide specific assistance to a government genuinely seeking to eliminate sectarian conflict.

85. Mr. ZHANG Yishan (China) said that his country was one of many religions and respect for the freedom of religious belief was a basic policy of his Government. The Chinese Constitution made specific provision for the protection of the freedom of religious belief and the equal rights of believers, and religious bodies and organizations at various levels were entitled to organize their activities without interference. They were also free to engage in friendly exchanges with foreign religious organizations and personnel and attend international religious conferences and symposia. His Government also offered facilities to Chinese Muslims wishing to go on pilgrimage to Mecca.

86. The Government did not make any distinction between believers and non-believers and had established departments of religious affairs at various levels to implement its policies regarding the protection of the rights of religious organizations and their activities. For example, the freedom to practise religion was fully guaranteed in the Tibet Autonomous Region, and more than 1,400 religious establishments were currently active, benefiting from substantial State subventions. Traditional Buddhist religious festivals and ceremonies were fully respected.

87. It should be stressed that there were explicit provisions in the Constitution of China that religion must not be used as a pretext for dismembering the State, disrupting public order, or impairing the educational

system. Those who engaged in criminal activities in the name of religion were punishable by law and, in recent years, there had been cases of that kind. However, no one had been arrested or sentenced on the basis of his or her religious belief and his delegation was convinced that all Governments would resolutely prohibit and oppose all criminal activities which might endanger State security and the social order.

88. Mr. CHANDRA (India) said that his country's historical and cultural tradition, and its acute awareness of the threat to democratic society posed by communal strife, had led to the establishment of a State based on secularism and positive tolerance towards all religions, creeds and beliefs. In any society, a climate of positive tolerance must be created within an appropriate legal framework and self-regulating institutions - all of which were provided for under India's secular Constitution, which ensured equality for all, irrespective of religion, in every sphere of life. That framework was backed up by a free press and an independent judiciary. Although there were occasional and regrettable outbreaks of violence, India was committed to preserving a pluralist and multilingual society within a democratic framework.

89. The Constitution of India had been specifically framed to promote tolerance and to permit people of different faiths or denominations fully to enjoy their right to religious freedom. The Constitution entitled all persons to freedom of conscience and the right freely to profess, practise and propagate religion. Furthermore, every religious denomination was entitled to establish and maintain institutions for religious and charitable purposes; to manage its own affairs in matters of religion, and to own, acquire and administer property in accordance with the rule of law.

90. Since India was a secular State, no religious instruction was provided in any educational institution wholly maintained from State funds. No person attending any such institution was required to participate in religious instruction or worship. Religious freedom could be exercised either individually or in association with others, in public or in private. Recourse in the event of violation of those rights lay directly to the Supreme Court or to the High Court of each of India's constituent states.

91. Apart from the provisions of the Constitution, his Government had strengthened the protection of the various faiths through the establishment in 1992 of a National Commission for Minorities. The function of the Commission was to monitor the working of constitutional safeguards and to investigate specific complaints. Apart from its monitoring activities, it enjoyed the powers of a civil court, including those of summoning witnesses, receiving evidence and requisitioning public records. The recommendations of the Commission would be submitted either to Parliament or to the state legislature, as appropriate, together with a memorandum explaining the action to be taken by the state government concerned.

92. The vigilance of the press was a further guarantee of minority rights, and Indian society was unusual in that, unlike those of most other developing countries, it allowed criticism of the majority community and political circles in the media. That in itself was a strong additional safeguard for minorities.

93. Notwithstanding the efforts of the Government, incidents of communal violence had occasionally occurred, but the overwhelming majority of the people had expressed their condemnation of such incidents as the destruction of the Babri Mosque, an issue which was of intense emotional and religious concern to them. Anxious to resolve the matter amicably, his Government had engaged in lengthy negotiations with all those concerned, indicating its readiness to accept either a negotiated solution or to refer the matter to the courts for a judicial decision. However, before the matter could be resolved, the opposition Bhartiya Janata Party had embarked on a campaign of religious propaganda and paramilitary activity which were wholly contrary to government policy.

94. The Government had taken prompt measures following the destruction of the Babri Mosque, including the arrest of the guilty parties, dismissal of the state government, banning of communal organizations and the setting up of a judicial inquiry. Such measures were in keeping with India's secular traditions and its long history of tolerance towards all religions: his country remained committed to a composite and pluralistic cultural society, despite the occasional and uncharacteristic outbreaks of communal strife.

95. Mr. ERMACORA (Austria) said that the Special Rapporteur's report had drawn attention to the continuance of religious intolerance, but that the phenomenon itself went deeper than the law, generating conflicts which were inextricably entangled with politics. It would be difficult, therefore, to recommend a resolution to the Commission for adoption: the main task lay in the field of education. In that connection, he agreed with the representative of the United States that the role of the advisory services provided by the Centre for Human Rights could usefully be expanded.

96. The Right Reverend Monsignor TABET (Observer for the Holy See) said that the Special Rapporteur's report, which urged States to safeguard freedom of worship, contributed to greater awareness in the international community of the standards which should form the basis of domestic legislation in that regard. States should be aware of their obligations under the Declaration to respect and protect the rights of national, ethnic, religious or linguistic minorities. Although violations of that right were the paramount concern, the Declaration encouraged strict and punctilious observance of the right to religious freedom, even in countries in which such freedom had only recently been recognized.

97. The process of drafting the Declaration, and its implementation, had provided the international community with an opportunity to define the nature and scope of religious freedom. That freedom could not be confined merely to tolerance of the right of individual conscience: it was also a guarantee of the right of a community to engage publicly in worship and to manage its own affairs in its own way. A religious community also had the right to impart its beliefs and to educate. Conversion was, in fact, one of the means by which freedom of belief was exercised.

98. It should be borne in mind that that right derived not from the State, but from the dignity of the individual. It was the duty of Governments to strengthen democracy and the rule of law in their societies and the right to practise a religion was absolutely fundamental in that regard, in that it

enabled the individual to act, both privately and in society, according to his or her conscience. The willingness to implement that right could, indeed, be seen as a measure of the extent to which a society had succeeded in achieving democracy.

99. Although the number of States in which freedom of belief was not guaranteed had diminished, there were still some which, for ideological or other reasons, imposed restrictions on believers and their communities or meddled in their lives or their organization. Such restrictions and interference had an adverse effect on society in general, inasmuch as the proper functioning of society depended on the free exercise of conscience.

100. Intolerance could also be reflected in the marginalization or oppression of religious minorities. Certain States tried to impose their own religious convictions on minorities, either directly by coercion or indirectly by denying certain civil and political rights. Such situations were still more sensitive if a specific religious practice became State law and was applied to all the nationals of the State, even if they were members of another religion. That situation could also occur if the members of a minority religious community did not enjoy the same rights as citizens in general, or if religious affiliation was included in the information given on identity documents. It should also be recalled that, in some States, exercise of the freedom to practise religion was accorded only to the majority faith.

101. It was true that, in various countries and regions, religion was sometimes used as a pretext for violence and injustice. The Commission should demonstrate its concern at such abuse of religion for violent and unjust ends by encouraging constructive dialogue aimed at defusing situations in which intolerance was liable to lead to violence. There must be a dialogue between those professing different religions so as to deepen their mutual understanding and encourage their willingness to live together in the societies of which they were members. That dialogue should also involve Governments, whose obligation it was to introduce and maintain a legal system in which freedom of conscience and religious practice were guaranteed.

The summary record of the second part of the meeting appears as document E/CN.4/1993/SR.27/Add.1.